



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

December 7, 2017

Memorandum for: Deputy Commissioner Trials

Re: **Detective Eric Ortiz**
Tax Registry No. 942297
Warrant Section
Disciplinary Case No. 2015-13689

Detective Kenny Valladares
Tax Registry No. 935898
Warrant Section
Disciplinary Case No. 2015-13690

Detective Ryan Lynch
Tax Registry No. 940399
Warrant Section
Disciplinary Case No. 2015-13687

The above named members of the service appeared before Assistant Deputy Commissioner Robert W. Vinal on March 14, 2016, charged with the following:

DISCIPLINARY CASE NO. 2015-13689

1. Said Detective Eric Ortiz, on or about October 29, 2014, at approximately 0600 hours while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED] engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he entered said premises without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

DISCIPLINARY CASE NO. 2015-13690

1. Said Police Officer Kenny Valladares, on or about October 29, 2014, at approximately 0600 hours while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he entered said premises without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

DETECTIVE ERIC ORTIZ
DETECTIVE KENNY VALLADARES
DETECTIVE RYAN LYNCH

DISCIPLINARY CASE NO. 2015-13689
DISCIPLINARY CASE NO. 2015-13690
DISCIPLINARY CASE NO. 2015-13687

DISCIPLINARY CASE NO. 2015-13687

1. Said Detective Ryan Lynch, on or about October 29, 2014, at approximately 0600 hours while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED] engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he entered said premises without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

2. Said Detective Ryan Lynch, on or about October 29, 2014, at approximately 0600 hours while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED] engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he searched property therein without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

In a Memorandum dated November 23, 2016, Assistant Deputy Commissioner Robert W. Vinal found Detective Ortiz and Detective Valladares Guilty of their sole Specifications in Disciplinary Case Nos. 2015-13689 and 2015-13690, respectively. Detective Lynch was found Guilty of Specification No. 1 and it was recommended that Specification No. 2 be dismissed in Disciplinary Case No. 2015 13687. Having read the Memorandum and analyzed the issues and circumstances of this matter, I disapprove the Guilty findings for Detective Ortiz, Detective Valladares, and Detective Lynch.

In consideration of existing Department procedures as well as relevant statutory and case law on the subject of arrest warrants and arrest warrant executions, I have determined that the entry into the premises in this matter was justified. Therefore, Detective Ortiz and Detective Valladares shall be found Not Guilty of their sole Specifications. I have also determined that Detective Lynch shall be found Not Guilty of Specification No. 1 and that Specification No. 2 shall be dismissed.


James P. O'Neill
Police Commissioner



POLICE DEPARTMENT CITY OF NEW YORK

November 23, 2016

MEMORANDUM FOR: Police Commissioner

Re: Detective Eric Ortiz
Tax Registry No. 942297
Warrant Section
Disciplinary Case No. 2015-13689

Detective Kenny Valladares
Tax Registry No. 935898
Warrant Section
Disciplinary Case No. 2015-13690

Detective Ryan Lynch
Tax Registry No. 940399
Warrant Section
Disciplinary Case No. 2015-13687

Charges and Specifications:

Disciplinary Case No. 2015-13689

1. Said Detective Eric Ortiz, on or about October 29, 2014, at approximately 0600 hours while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED] engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he entered said premises without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5 - PUBLIC CONTACT - PROHIBITED
CONDUCT

Disciplinary Case No. 2015-13690

1. Said Police Officer Kenny Valladares, on or about October 29, 2014, at approximately 0600 hours while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED] engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he entered said premises without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5 - PUBLIC CONTACT - PROHIBITED
CONDUCT

Disciplinary Case No. 2015-13687

1. Said Detective Ryan Lynch, on or about October 29, 2014, at approximately 0600 hours while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED] engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he entered said premises without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5 - PUBLIC CONTACT - PROHIBITED
CONDUCT

2. Said Detective Ryan Lynch, on or about October 29, 2014, at approximately 0600 hours while assigned to the Warrant Section and on duty, in the vicinity [REDACTED] engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he searched property therein without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5 - PUBLIC CONTACT - PROHIBITED
CONDUCT

Appearances:

For CCRB-APU:

Raasheja Page, Esq.
Civilian Complaint Review Board
100 Church Street, 10th floor
New York, New York 10007

For the Respondents:

Karen Yaremko Middleton, Esq.
Karasyk & Moschella, LLP
233 Broadway, Suite 2340
New York, New York 10279

Hearing Date:

March 14, 2016

Decision:

Disciplinary Case No. 2015-13689

Respondent Ortiz is found guilty.

Disciplinary Case No. 2015-13690

Respondent Valladares is found guilty.

Disciplinary Case No. 2015-13687

Respondent Lynch is found guilty of Specification No. 1.

It is recommended that Specification No. 2 be dismissed.

Trial Commissioner:

ADCT Robert W. Vinal

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on March 14, 2016. Respondents, through their counsel, entered pleas of not guilty to the subject charges. CCRB called Ibrahim Toure and his spouse Frances Toure as witnesses and offered in evidence a video recording. Respondents testified on their own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Ortiz, Respondent Valladares and Respondent Lynch Guilty of the charged misconduct under Specification No. 1. It is recommended that Specification No. 2 against Respondent Lynch be dismissed.

FINDINGS AND ANALYSIS

The following facts are not in dispute. Person A was a defendant who was being criminally prosecuted on a charge of Rape in the First Degree. On October 27, 2014, Person A failed to appear for a scheduled court appearance and the judge issued a bench warrant authorizing his arrest [Respondent's Exhibit (RX) C]. This bench warrant indicated that Person A's residence address was [REDACTED]. The bench warrant was forwarded to the Brooklyn North Warrant Squad (BNWS) and Respondent Lynch was assigned to execute this warrant by arresting Person A. On October 29, 2014, at about 0600 hours, Respondent Lynch, accompanied by Respondents Ortiz and Valladares who were also assigned to BNWS, went to [REDACTED] which is a three story brownstone building. [A street view photograph of the front of the building was entered into evidence (RX D)].

Ibrahim Toure (Ibrahim) testified that he owns [REDACTED] which contains three apartments, one on each floor. He and his wife Frances reside in the apartment on the second floor and they rent out the apartment [REDACTED]. On October 29, 2014, the [REDACTED] apartment had no tenant and was vacant because it was under renovation. The building's front entrance consists of two doors: an outer door that leads from the street into a vestibule area; and an inside door which leads from the vestibule into a hallway outside the first floor apartment and to stairs that lead to the second and third floor apartments. [CCRB Exhibits (CCRBX) 1-3].

He testified that on October 29, 2014, both of these doors were equipped with "slam locks" that automatically lock the door when the door closes and make a clicking sound. The locks can only be opened by someone who has two keys, one for each door. Ibrahim recalled that when he left [REDACTED] on the morning of October 29, 2014 before 0600 hours, he heard both doors close behind him and he heard both of the locks click.

Frances Toure (Frances) testified at trial that on the morning of October 29, 2014, after Ibrahim left to drop off their daughter at her grandmother's house, she went back to bed. Shortly thereafter, she heard the inside door open. She then heard footsteps in the hallway outside her second floor apartment and heard footsteps on the stairs leading up to the [REDACTED]. She had not heard the doorbell ring so she called out, "Ibrahim, what is it that you forgot?" She then heard a voice say, "No, ma'am. It is the police." She responded, "Oh, okay. Hold on a minute." Because she did not believe that the men were police officers, when she opened her apartment door she held a kitchen knife behind her back. When the men asked her who owned the building, she told them that her husband owned the building.

They then showed her a photograph of Person A and told her that they were looking for him. Since she now believed that the men were police officers, she told them that Person A

had moved out of the [REDACTED] apartment about two months before and she gave them the contact information she retained regarding Person A's mother. The officers thanked her and she walked them downstairs to the front door. The officers told her that they were able to enter the building because both of the entry doors were open. After the officers left, she observed scratches on the cylinders of the door locks and she had difficulty closing the inner door which she had not experienced before. She then reviewed the video footage that had been recorded that morning by a surveillance camera which was positioned in the vestibule.

The video and audio recording made at about 0600 hours on October 29, 2014 by a camera inside [REDACTED] which is mounted inside the vestibule and faces the inside of the inner door was entered into evidence (CCRB 4). After light from flashlights is seen shining through the glass window of the inner door, a loud popping sound is heard¹ and the door opens. Three men enter the building and a voice can be heard saying, "Police Department." About one minute later, a conversation between a man and a woman can be heard off screen. The conversation ends and the three men are seen leaving the building.² On their way out, one of the men removes what appears to be envelopes from a basket in the hallway. He then places them back into the basket. Shortly thereafter, a woman can be seen walking toward the inner door and asks, "Was my door left open?" A voice responds apparently saying, "It was." The woman is seen going back into the building and the three men exit.

Respondent Lynch testified that prior to going to [REDACTED] on October 29, 2014 to attempt to arrest Person A on the bench warrant, he performed a DMV check and ascertained that Person A's driver's license listed his residence address as [REDACTED] [REDACTED] [REDACTED]. He also he performed a CJA check and ascertained that when Person A was arrested on June 15, _____

¹ At approximately 4 minutes and 9 seconds.

² At approximately 6 minutes and 28 seconds.

2014, he told the investigator that his residence address was [REDACTED]

[REDACTED] Respondent Lynch wrote "[REDACTED]" on his own copy of the bench warrant and that is why when he and Ortiz and Valladares entered [REDACTED] on October 29, 2014, they went directly to the [REDACTED] of the building. Respondent Lynch confirmed that he did not check any property records or other records to ascertain who owned [REDACTED]

Respondent Lynch asserted that when they arrived at the front door, they determined that the door was unlocked, they opened it, and they entered into the vestibule area. Lynch testified that because the second door was locked, he "manipulated the door back and forth trying to gain entry" and that this door "eventually popped open." Respondents then went directly to the third floor. When they reached the [REDACTED] they saw that the apartment was being renovated and that no one was living there.

Lynch testified that he then went to speak to neighbors. He identified himself as a police officer after hearing a woman's voice from inside an apartment on the second floor. When she opened her apartment door, Lynch showed her the bench warrant which had a photo of Person A on it. The woman, who identified herself as Frances Toure, told Lynch that Person A was the son of a former tenant and she gave Lynch Person A's mother's phone number.

On his way out, Lynch noticed mail in a basket in the hallway. He picked up the mail to see if Person A's name was on any of it. After he looked through the mail, he placed it back where he had found it and left the building. Lynch testified that he did not look inside any mailboxes. Lynch testified he did not believe that his action of looking through the mail constituted a search because the mail was in a common area which was open to the public. Lynch testified that when executing an arrest warrant, he is permitted to reach inside any basket or cabinet as long as it is in a common area. Lynch testified that he did not ring the doorbell before attempting to gain

entry into the building because he did not want to put himself or Valladares and Ortiz in danger by giving Person A advance notice that they were coming for him. It was his intention to knock on the [REDACTED] apartment door after gaining access to the "common area" of the building.

Respondent Lynch acknowledged that he knew that the three-story brownstone building [REDACTED] was a private building and he confirmed that at his CCRB interview he had stated that there were no restrictions on his ability to execute an arrest warrant and that if he reasonably believed that the subject of a warrant was present inside a location he could enter the location by "any means necessary."

Respondent Ortiz testified that when they arrived at [REDACTED] Lynch walked up to the outermost door and "either pushed or turned the knob in, and it opened up right away." They then entered the vestibule area and Lynch "play[ed] with the doorknob" of the inside door until it opened. Upon reaching [REDACTED] they realized that the apartment was vacant, so they went back down to the second floor to try to make contact with neighbors. Lynch knocked on the door of the second floor apartment and spoke to a woman inside who provided him with the phone number of the [REDACTED] apartment's former tenant. Ortiz testified that it is his understanding that there are no guidelines with respect to the execution of a bench warrant.

Respondent Valladares testified that the outside door to the building was partially closed but unlocked when they arrived. Respondent Valladares further described the outside door as being, "a little off the hinges where if you just pulled it, you can open the door." Lynch opened the door and they entered the vestibule. The inner door, however, was locked. According to Valladares, Lynch "maybe adjusted the door" and "some pressure was applied" with his hip and then the door opened. Respondent Valladares corroborated the testimony of both Lynch and Ortiz with regard to what transpired once they were inside the building.

Analysis

Since Respondents were attempting to arrest Person A on a bench warrant, in executing this bench warrant they were required to comply with the provisions of New York Criminal Procedure Law (CPL) section 120.80 "Warrant of Arrest; when and how executed,"³ which mandates (under subdivision 4.) that before entering any premises where the officer reasonably believes the defendant to be present, the officer "must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof unless there is reasonable cause to believe that the giving of such notice will: (a) Result in the defendant escaping or attempting to escape; or (b) Endanger the life or safety of the officer or another person; or (c) Result in the destruction, damaging or secretion of material evidence." Subdivision 5 of CPL 120.80 states that only "after giving such notice" of the officer's "authority and purpose," if "he is not admitted" then "he may enter such premises, and by a breaking if necessary." Patrol Guide Procedure No. 208-42, "Arrest on a Warrant," incorporates most of the language contained in CPL 120.80.⁴

None of the Respondents asserted that they had attempted to comply with the mandate of CPL 120.80(4) that "(b)efore such entry, he must give, or make reasonable effort to give, notice of his authority and purpose to an occupant" of the premises, or comply with the Departmental procedures contained in Patrol Guide Procedure No. 208-42, before they entered through two

³ See CPL section 530.70, "Order of recognizance or bail; bench warrant," Subdivision 2.

⁴ Although most of the language contained in Patrol Guide Procedure 208-42 mirrors that of CPL 120.80, subdivision 4 of the Patrol Guide Procedure merely states "(b)reak into premises, if necessary," whereas CPL 120.80(5) states that "if after giving such notice" of the officer's authority and purpose "he is not admitted, he may enter such premises, and by a breaking if necessary."

entrance doors into a common area of the premises⁵ at [REDACTED] on October 29, 2014.

All of the Respondents asserted that since they had a reasonable belief that Person A lived on the [REDACTED] of this brownstone, they were not subject to any restrictions regarding how they could get through two entrance doors to get into the premises⁶ so that they could walk up the stairs [REDACTED]

[REDACTED] During Respondent Ortiz' interview at CCRB regarding this incident when he was asked, "Are there any guidelines for executing a bench warrant?" He answered, "No, not really." During his testimony at this trial, when Respondent Ortiz was asked, "As you sit here today, do you still believe that there are no guidelines on how to execute a bench warrant?" He answered, "Yes." Respondent Lynch testified that if an officer reasonably believes that the subject of the bench warrant is inside premises, there are no restrictions on how the officer can enter the premises and that the officer can get into the premises "by any means necessary." Finally, Respondent Valladares testified that if officers believe that the subject of a bench warrant is inside premises, "we can open the door."

It is not disputed that Respondents did not ring the doorbell or knock on the street entrance front door [REDACTED] or on the door located behind the street entrance door. [REDACTED] or otherwise announce their authority and purpose to any occupant until after they had passed through both doors, climbed the stairs [REDACTED] walked back down to the second floor. [REDACTED] knocked on the apartment door, and identified themselves as police officers to Frances Torres.

⁵ Although the CPL does not define the term "premises," New York Penal Law section 140.00, "Criminal trespass and burglary: definition of terms," defines "premises" as including the term "building," and the term "building" is defined broadly in that the statute states that "where a building consists of two or more units separately secured or occupied, each unit shall be deemed both a separate building in itself and a part of the main building."

⁶ See *People v. Torres*, 162 AD2d 385 (1st Dept. 1990) citing *People v. McCurdy*, 86 AD2d 493 (2nd Dept. 1982) (where it was held that the hallway of a brownstone building which had a locked street entrance door should be considered part of the private area of the premises, even though the brownstone contains multiple apartment units).

I credit the testimony of Ibrahim Toure that he owns [REDACTED] and that on October 29, 2014, the street entrance door and the interior door located behind the street entrance door, were both equipped with "slam locks" that automatically locked these two doors when the doors were closed and that these two locks can only be opened by someone who has two keys, one for each door. I further credit his claim that when he left [REDACTED] on the morning of October 29, 2014 shortly before 0600 hours, he heard both doors close behind him and he heard the locks on both doors engage to lock these doors. Although Respondents denied that they had picked any locks, they all testified that they had entered the brownstone building [REDACTED] through the street entrance door.

As to the interior door located behind the street entrance door, it is clear from the surveillance camera video and Respondents' own testimony that they pushed on this door until the door, as Respondent Lynch described it, "eventually popped open." The video, which was recorded at about 0600 hours on October 29, 2014 by a camera which faces the inside of this inner door (CCRB 4), shows light from Respondents' flashlights shining through the glass window of the inner door and, soon after, a loud popping sound is heard as the door opens. Respondent Lynch testified that because the inner door was "locked," he "pushed" and "manipulated the door back and forth trying to gain entry" until the door "eventually popped open." Respondent Ortiz recalled that Respondent Lynch "play[ed] with the doorknob" of the inside door until it opened, and Respondent Valladares recalled that Respondent Lynch "maybe adjusted the door" and "some pressure was applied" with his hip until the door opened.

I credit the testimony of Frances Toure that when she asked Respondents how they had been able to enter the premises, they told her that they were able to freely enter because both of the entry doors were open. Since the video and Respondents' own testimony establish that they

broke through the interior door located behind the street entrance door, the record establishes that their statement to Ms. Toure that both of the entry doors were open was a lie.

Respondent Lynch testified that he did not attempt to give notice of their authority and purpose to an occupant before entering the premises because he did not want to put himself or his co-Respondents in danger by giving Person A advance notice that they were coming to arrest him. If Respondents had, during their testimony, delineated facts that sufficiently established that giving such notice would have endangered their lives or safety, their action of breaking in without giving notice would have been justified under CPL 120.80 and Patrol Guide Procedure No. 208-42. Although Person A had failed to appear in court to face a charge of Rape in the first degree committed by forcible compulsion (RX C), none of the Respondents had ever had any interactions with him and no evidence was offered to corroborate Respondent Lynch's testimonial claim that Person A had "an assault on a police officer prior."⁷ Since Respondents cited no other factors to support their position that giving notice of their authority and purpose to an occupant before they broke into the premises would have endangered their lives or their safety,⁸ Respondents did not establish that they had sufficient "reasonable cause to believe that the giving of such notice" would have endangered their lives or safety.

Since Respondents did not attempt to give notice of their authority and purpose to an occupant of the premises prior to breaking into the premises, and since they were not denied admittance by any occupant before they entered the premises by breaking through two locked

⁷ Although the CCRB Administrative Prosecutor offered no evidence to refute Respondent's Lynch's claim, it was Respondent Lynch who asserted that Respondents qualified for an exception to the "must" give notice rule under CPL 120.80(4). Patrol Guide Procedure 208-42, "Arresting Officer," 3., lists the three exceptions to giving notice but omits the "reasonable cause to believe that the giving of such notice will" language contained in CPL 120.80(4).

⁸ See *People v. Reiff*, 64 AD2d 719 (2nd Dept. 1978) where officers were found to have had reasonable cause to believe that the giving of notice would have endangered their lives or safety because subject of warrant had thrown bombs and used weapons.

doors,⁹ their action of breaking into [REDACTED] violated both the mandates contained in CPL 120.80(4) and the Departmental procedures established by Patrol Guide Procedure No. 208-42(3). In defending themselves regarding this charge, they each offered erroneous testimony that there are no guidelines on how to execute a bench warrant, that there are no restrictions on how an officer can enter premises, and that officers executing a bench warrant are empowered to open doors and enter premises by any means necessary.

Therefore, Respondents are each found guilty of Specification No. 1.

Finally, it is charged, under Specification No. 2, that Respondent Lynch "searched property therein without sufficient legal authority." Respondent Lynch confirmed that as Respondents were leaving the premises, he saw mail inside a basket located in the vestibule; that he reached into the basket and pulled mail out, and that he looked at the addresses on the envelopes to see if any of the mail was addressed to Person A. Respondent Lynch testified that he believed that his action was not improper because the basket was located in the foyer which was "a common area" of the building that was "open to the public."

The record establishes that Respondent Lynch did not reach into the basket until after Respondents had spoken to Ms. Toure who had willingly assisted them by providing them with the address that Person A mother had given her when Person A moved out of the apartment [REDACTED]. Also, Ms. Toure did not demand that Respondents immediately leave the premises or demand that they not touch anything. Based on Ms. Toure's cooperative attitude, it was not unreasonable for Respondent Lynch to assume that he could look at the addresses on the envelopes in the mail basket. Since Respondent Lynch did not open any envelopes, under the

⁹ See *People v. Paige*, 77 AD3d 1193 (3rd Dept. 2010).

circumstances presented here, there is no need to conduct a legal analysis as to whether his minimal action of reaching into an open basket, pulling out mail, and looking at the addresses on the envelopes, constituted a "search" of "property."

It is recommended that Specification No. 2 be dismissed.

PENALTY RECOMMENDATIONS

In order to determine an appropriate penalty, Respondents' service records were examined. *See Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974). Respondent Lynch was appointed to the Department on January 9, 2006. Respondent Ortiz was appointed to the Department on July 10, 2006. Respondent Valladares was appointed to the Department on July 1, 2004. Information from their personnel records that was considered in making these penalty recommendations is contained in attached Confidential Memoranda. None of the three Respondents has a prior disciplinary adjudication. The CCRB Administrative Prosecutor recommended that Respondent Lynch forfeit 30 vacation days as a penalty and that Respondents Ortiz and Valladares each forfeit 20 vacation days as a penalty. The Administrative Prosecutor did not cite any previous disciplinary decisions to support these penalty recommendations.

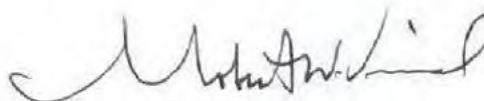
All three Respondents have been found guilty of having entered premises without sufficient legal authority. In *Case No. 2014-11569* (signed Sept. 10, 2015), a ten-year sergeant who had no prior disciplinary record forfeited three vacation days as a penalty after he was found guilty of having forcibly entered premises without sufficient legal authority. Also, in *Case No. 2014-12439* (Oct. 13, 2015), a 17-year detective who had no prior disciplinary record forfeited three vacation days as a penalty after he was found guilty of having forcibly entered premises without sufficient legal authority. In that case, as here, the detective was attempting to arrest a defendant on a bench warrant. Most recently, in *Case No. 2014-12027* (April 7, 2016), an eight-

year police officer who had no prior disciplinary record forfeited three vacation days as a penalty after he was found guilty of having entered premises without sufficient legal authority.

In formulating penalty recommendations, I have also taken into consideration the potential danger that officers face when they seek to enter premises to execute an arrest warrant because the valid personal safety concerns of officers must be taken into account in evaluating the improper police action they engaged in.

Therefore, it is recommended that Respondent Ortiz, Respondent Valladares, and Respondent Lynch, each forfeit three vacation days.

Respectfully submitted,



Robert W. Vinal
Assistant Deputy Commissioner





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE KENNY VALLADARES
TAX REGISTRY NO. 935898
DISCIPLINARY CASE NO. 2015-13690

Respondent received an overall rating of 4.0 on his 2014-2015 annual performance evaluation; and 3.5 on his previous performance evaluation. He has been awarded four Meritorious Police Duty medals and five Excellent Police Duty medals. [REDACTED]
[REDACTED] He has no prior disciplinary record.

He has a monitoring record. On June 8, 2010, he was placed on Level 1 Force Monitoring for receiving three or more CCRB complaints with a one year period. This monitoring ended on July 22, 2011.

For your information.

Robert W. Vinal
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE KENNY VALLADARES
TAX REGISTRY NO. 935898
DISCIPLINARY CASE NO. 2015-13690

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Assistant Deputy Commissioner Trials